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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-------------------------|---------------------|-------------------|
| 10/605,251 | 09/18/2003 | Ilia Natanovich Geifman | | 2250 |
| 35214 | 7590 | 02/09/2005 | EXAMINER | |
| LEONID KHODOR 4920 BRAINARD ROAD ORANGE, OH 44022 | | | | BRUNSMAN, DAVID M |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 1755 |

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/605,251 | GEIFMAN ET AL. |
| | Examiner | Art Unit |
| | David M Brunsman | 1755 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 December 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 and 18-21 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 15-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20030918</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election with traverse of group IV in the reply filed on 17 December 2004 is acknowledged. The traversal is on the ground(s) that groups IV and V are disclosed as capable of use together and all of the groups would require similar searches. This is not found persuasive because group IV and V are different products that do not operate together, groups III and (IV or V) are independent in that each requires particulars not required by the other. Further, each group (I-V) requires a search of different scope and it would constitute an undue burden on the office to search and examine all groups in a single application.

The requirement is still deemed proper and is therefore made FINAL.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3931569 in view of UA 40178A.

US Patent 3931569 discloses an EPR spectrometer having a rectangular cavity with opposing wide and narrow sides (see figure 2), a permanent magnet having planar poles disposed parallel to and in close proximity to the wide sides (see figure 1, reference number 15), a sample hole perpendicular through the a narrow side of the cavity (see figure 1, line

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12), a radio frequency generator (figure 1, reference 20), two connection wires inserted through holes perpendicular to the narrow sides of cavity on opposite sides of the sample hole (figure 1, follow reference numbers 18 and 19).

The difference between this patent and the instant claims is the lack of a ferroelectric single crystal resonator with a through hole coaxial to the sample hole. UA 40178A, as described in the instant specification, teaches the addition of a KLiTaO₃ ferroelectric single crystal resonator having a through hole coaxial to the sample hole (see figure 1) in order to reduce the background signal and strengthen the crystal lattice. The resonator having a shape substantially symmetrical relative to three mutually perpendicular plane and axes with the through hole along one of said axes. The first paragraph of page 6 discloses lithium amounts of 0-3.8% are known. While the reference prefers and claims 0-0.1% this reference does indicate higher amounts are useful. It would have been obvious to one of ordinary skill in the art to employ a KLiTaO₃ ferroelectric single crystal resonator with a through hole coaxial to the sample hole because the reference teaches it would improve the performance of a spectrometer and the particular material employed by claim 16 is itself particularly useful.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The subscripts of claim 16 render its scope indefinite as they each recite two numbers without defining the relationship between them. For purposes of examination, they have been construed as 0.97-0.99 and 0.03-0.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M Brunsman whose telephone number is 571-272-1365. The examiner can normally be reached on M, W, F, Sa; 6:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David M Brunsman
Primary Examiner
Art Unit 1755

DMB

